

REGULAR CITY COUNCIL MEETING
DECEMBER 12, 1988

PRESENT

Ruth Hansen	Mayor
Wesley J. Bloomfield	Council Member
Gayle Bunker	Council Member
David Church	Council Member
Rex T. Harris	Council Member

ABSENT

Don Dafoe	Council Member
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OTHERS PRESENT

Dorothy Jeffery	City Recorder
Richard Waddingham	City Attorney
Sarah Inez Moody	Chronicle/Progress
Ernest L. Harris	Citizen
Dixie Harris	Citizen
Donald Church	Citizen
Cora Church	Citizen
Gordon Searle	Wagon Wheel Bar
Arvella Searle	Wagon Wheel Bar
Virgil Rooks	Citizen
Howard Church	Citizen
Don Rand	Citizen
Bryce Ashby	Fire Chief
Jean Smith	Citizen
J. R. Aragon	Citizen
Rick Searle	Citizen
Harvy Ross	Citizen
Sharon Ross	Citizen
Jan Pace	Citizen
Karen Hirey	Citizen
W. Andrew McCullough, Esq.	Attorney
Morris Burton	Police Officer
Deann Burton	Citizen
Stan Robison	Citizen
Phillip Corbally	Citizen
Roger J. Young	Police Chief
Janice Burkhead	Citizen
Robert Burkhead	Citizen
Jim Robson	Citizen
Cindy Holcomb	Citizen
Lyle Hansen	Citizen
Vinsent R. Crawford	Utah Power & Light Co.
Ken R. Rand	Chronicle/Progress
Phill Smith	Citizen

Lorene Smith	Citizen
Catrina Robison	Youth Council
Tonya Bunker	Youth Council
Terresa Nickle	Youth Council
Shelly Bunker	Youth Council
Tami Reynolds	Youth Council
Tina DeGraw	Youth Council
Carol Hawk	Citizen
Gary Paul Rose	Youth Council
Jannifer Smith	Youth Council
Darla Hawk	Youth Council
Dave Hawk	Citizen
Paula Nielson	Youth Council
Kris Swalberg	Youth Council
Jeresa Willoughby	Youth Council
Nan Bunker	Citizen
Clyde Bunker	Citizen
Robin Woolsey	Youth Council
Britt Willden	Youth Council
Becky Wilson	Youth Council
Loretta Tenney	Youth Council
Sherilyn Johnson	Youth Council
Sherry Nickle	Citizen
M. Grgich	Citizen
Reed Grgich	Citizen
Beckie Brgich	Youth Council
Brittney Smith	Youth Council
D. Scott Nickle	Citizen
Marci Hansen	Citizen
Michael Styler	Millard County Commissioner
Mr. & Mrs. Glen Swalberg	Citizens
H. Doyle Bender	City Treasurer

Mayor Hansen called the meeting to order at 7:00 p.m. Dorothy Jeffery, City Recorder, acted as secretary. Mayor Hansen stated that notice of the meeting time, place and agenda was posted at the principal office of the governing body located at 76 North 200 West and was provided to the Millard County Chronicle/Progress, the local radio station, KNAK, and to each member of the City Council by personal delivery two days prior to the meeting.

MINUTES

pgs. #145 through #154 not used

The pro November: The Cc correct: be appr Member Bunker. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

a regular City Council meeting held
sented for consideration and approval.
he minutes briefly and proposed
r David Church MOVED that the minutes
The motion was SECONDED by Council

The proposed minutes of a special City Council meeting held November 22, 1988, were presented for consideration and approval. The Council reviewed the minutes briefly, after which Council Member Gayle Bunker MOVED that the minutes be approved as presented. The motion was SECONDED by Council Member Wesley Bloomfield. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

ACCOUNTS PAYABLE

The Council reviewed the accounts payable, a list of which had been given to them two days prior to the meeting. Following a brief discussion of the accounts payable, Council Member David Church MOVED that the accounts payable be approved for payment as listed in the amount of \$39,701.93. The motion was SECONDED by Council Member Gayle Bunker. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

W. ANDREW MCCULLOUGH, MCCULLOUGH, JONES & IRVINS: BUSINESS LICENSE OF ARVELLA SEARLE, dba THE WAGON WHEEL INN

Mayor Hansen recognized W. Andrew McCullough, attorney representing Arvella Searle, manager of The Wagon Wheel and asked him to address the City Council regarding the License Hearing Board's decision to uphold the City Council's recommendation to revoke The Wagon Wheel's business license and beer license due to the business's violation of Delta City municipal ordinances.

Delta City issued Mrs. Searle a business license dated February 29, 1988 and placed The Wagon Wheel on a six-month probation period. If any violation of state law or county or municipal ordinances occurred within said six-month probation period, The Wagon Wheel's license was to be revoked. On August 25, 1988, The Wagon Wheel was found to be in violation of its probation terms. Criminal charges were thereafter brought against an employee of The Wagon Wheel. On November 1, 1988, a trial was held in the Justice Court, State of Utah, in and for City of Delta, Millard County whereby said Wagon Wheel employee was convicted of four (4) class B misdemeanors for various violations of Delta City ordinances. A Cease and Desist Order to stop doing business was immediately issued by Delta City against The Wagon Wheel. A hearing was conducted before the License Hearing Board which upheld the action taken by Delta City and ordered that the business license of The Wagon Wheel be revoked for an indefinite period of time.

Mr. McCullough stated that he had listened to taped proceedings of the hearing conducted by the License Hearing Board regarding the revocation of the business license of The Wagon Wheel. He

then reviewed the proceedings of that hearing with the City Council and expressed his concerns regarding the effect that closing The Wagon Wheel would have on both his client and the community. He informed the City Council that since the Cease and Desist Order was issued to Mrs. Searle on November 1, 1988, there had been no further business conducted by the Wagon Wheel.

Following further review, Mr. McCullough implied that revocation of The Wagon Wheel's business license would not be good for the business community and recommended that the City Council reinstate the business license for The Wagon Wheel on January 1, 1989.

Attorney Richard Waddingham said that The Wagon Wheel was in violation of Delta City ordinances and that the administrative remedies afforded by the ordinances had been exhausted by The Wagon Wheel, with the exception of bringing an action in the District Court in and for Millard County. Attorney Waddingham expressed his concern that failure to uphold the decision of the License Hearing Board could have an adverse effect on Delta City in two respects:

First, Delta City would be establishing a dangerous precedent for those businesses who in the future may be subject to having its business license revoked for failure to comply with Delta City's business licensing ordinances.

Second, Delta City would be sending a mixed message to those peace officers responsible for enforcing the Delta City ordinances. The business license ordinances must be interpreted and applied equally to all businesses. Furthermore, the Delta City peace officers are entitled to rely on and enforce the Delta City ordinances equally against all persons and businesses who are in violation of same. While the City's peace officers should use discretion in enforcing the law, they should not be made to guess how and against whom the laws and ordinances apply.

Councilmember David Church said that the License Hearing Board sits as an appeals board to consider petitions by those persons or businesses whose business license(s) are revoked, modified or restricted by the business licensing official. Mr. Church indicated that such a hearing was conducted. He stated that the board wanted to be informal and relax the rules of evidence so as to hear any and all testimony presented to the Board.

The City Attorney contended that The Wagon Wheel's period of probation was still in effect at the time of the violation and that, therefore, the business license could have been revoked without giving The Wagon Wheel the right to a hearing before said License Hearing Board. However, the City Attorney felt that it was in the best interests of Delta City to grant The Wagon Wheel the right to a hearing before the License Hearing Board and to provide The Wagon Wheel with more due process than was required under the circumstances. Mr. Waddingham's reasoning in

recommending the right to a hearing before the License Hearing Board was based on the belief that the Wagon Wheel would attempt to obtain an injunction from the District Court. Therefore, Mr. Waddingham wanted a complete record of the proceedings for the court's review, if necessary.

Mr. McCullough contended that the probation period had in fact expired due to the fact that the manager had paid Delta City for a license prior to February 25, 1988 and had been given permission to open its doors to the public. (NOTE: The date on The Wagon Wheel's business license was February 29, 1988.)

It was the opinion of the License Hearing Board that the date The Wagon Wheel's business license was issued was not the critical issue. The issue before the Board was whether The Wagon Wheel had violated Delta City ordinances. The Board found that the Delta City ordinances were violated and that the business license official was within her discretion to order a cease and desist order, whether or not The Wagon Wheel was on probation.

Mr. Church reminded the City Council that in a previous case of possession of gambling devices at The Wagon Wheel Lounge, a hearing before the License Hearing Board was held whereby the Board voted to uphold the action taken by the business license official to order a cease and desist order against The Wagon Wheel, although the City Council opted on review to reinstate The Wagon Wheel's business license with a six-month probation period. Councilmember Church informed the councilmembers that this was the second time that The Wagon Wheel had been in violation of Delta City ordinances and that the License Hearing Board has again recommended that The Wagon Wheel's business license be revoked. Mr. Church also stated that business owners are responsible for their employees and how the employees conduct themselves and the business reflect on the business's owner. It was the Board's opinion that Mrs. Searle was responsible for her employee's actions on the night of August 25, 1988.

Councilmember Church assured Mr. McCullough that the City Council was not trying to drive businesses out of the City. To the contrary, the Council does want businesses to stay in Delta, Utah. However, those people doing business in Delta City are required to obey the City ordinances. He stated that the License Hearing Board listened to the testimonies of several witnesses and deliberated a long time before arriving at a decision. However, the decision of the License Hearing Board was that The Wagon Wheel's business and beer license be revoked.

Several people were in attendance at the Council meeting supporting Mr. & Mrs. Searle and The Wagon Wheel. Many people voiced their support for the Searles and the reopening of The Wagon Wheel.

Following discussion, Councilmember David Church MOVED to uphold the revocation of The Wagon Wheel's beer and business licenses.

The motion was SECONDED by Councilmember Gayle Bunker. Mayor Hansen asked if there were any questions or comments regarding the motion. There being none, she called for a vote. The motion carried. Councilmember Rex Harris abstained from voting.

CHIEF OF POLICE ROGER YOUNG: DELTA CITY POLICE DEPARTMENT'S
POLICIES AND PROCEDURES MANUAL

Mayor Hansen asked Chief of Police Roger Young to review with the Council a proposed Police Department Policies and Procedures Manual.

The Council briefly reviewed the proposed Policies and Procedures Manual, after which Council Member David Church MOVED to table discussion of the Police Department's Policies and Procedures Manual to allow further time for study and review. The motion was SECONDED by Wesley Bloomfield. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

VINCE CRAWFORD, UTAH POWER & LIGHT: MUNICIPAL POWER PROPOSAL

Mayor Hansen asked Vincent Crawford of Utah Power & Light Co. to address the Council.

Mr. Crawford referred to a regular City Council meeting held November 14, 1988, where Carl L. Palmer & Associates presented a proposal for Municipal Power.

Mr. Crawford reviewed with the Council the service and expertise that Utah Power & Light Co. (UP&L) provides to the City of Delta. He also said that UP&L has a 27 year Franchise Lease Agreement with Delta City and is willing to do everything they are committed to do and everything they can do to keep their rates down.

Mr. Crawford cautioned the Council against Municipal Power and said that at the present time, Utah Power & Light rates are lower than Municipal Power rates.

COUNCILMAN WESLEY BLOOMFIELD: SWEARING IN OF DELTA CITY YOUTH
COUNCIL

Mayor Hansen asked Councilman Wesley Bloomfield introduce the Delta City Youth Council.

Mr. Bloomfield said that the Delta City Youth Council was started approximately three months ago and have been meeting weekly for two months. The Youth Council has had many worthwhile projects and has plans for many more in the future. Mr. Bloomfield

commended the Youth Council for their involvement and desire to serve the community.

City Recorder Dorothy Jeffery then Swore In the following Youth Council:

Jennifer Smith	Mayor
Gary Paul Rose	Youth Council Member
Teressa Nickle	Youth Council Member
Tonya Bunker	Youth Council Member
Sherilyn Johnson	Youth Council Member
Shelly Bunker	Youth Council Member
Paula Nielson	Attorney
Kris Swalberg	Recorder
Darla Hawk	Treasurer
Loretta Tenney	Police Chief
Teresa Willoughby	Public Works Director
Becky Girgich	Justice of the Peace

Gary Paul Rose reviewed the following past, present and future plans of the Youth Council:

Sub For Santa
Dinner for Sand's Apartment Residents
Anti Vandalism Week
Restrooms for the City Park
Attend three day conference at Utah State University

Mr. Rose stated that the main objective of the Youth Council is to get youth involved in City Government and to be a benefit to the community.

ATTORNEY RICHARD WADDINGHAM: AMENDMENT TO BUSINESS LICENSE ORDINANCE SECTION 9-114 OF THE REVISED CODE OF ORDINANCES (1981 EDITION) IN REFERENCE TO BUSINESS LICENSE RENEWALS

Mayor Hansen asked Attorney Richard Waddingham to present a proposed ordinance.

Attorney Waddingham presented a proposed ordinance entitled:

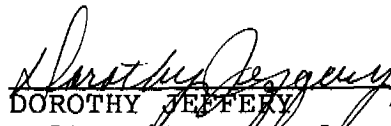
AN ORDINANCE AMENDING SECTION 9-114.D. OF THE REVISED ORDINANCES OF DELTA CITY (1981 edition), AS AMENDED, REGARDING PROCEDURAL REQUIREMENTS FOR BUSINESSES THAT FAIL TO RENEW BUSINESS LICENSES WITHIN 120 DAYS OF RENEWAL DATE.

Following review of the ordinance the Council agreed that business license renewals should be completed within 60 days rather than 120 days.

Council Member Rex Harris MOVED to table this item until the next regular City Council meeting to allow City Attorney time to revise the ordinance. The motion was SECONDED by Council Member David Church. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously.

Mayor Hansen asked if there were any further comments, questions or items to be discussed. There being none, Council Member David Church MOVED to adjourn. The motion was SECONDED by Council Member Rex Harris. Mayor Hansen asked if there were any further comments or questions regarding the motion. There being none, she called for a vote. The motion passed unanimously. Mayor Hansen declared the meeting adjourned at 9:10 p.m.


RUTH HANSEN, Mayor


DOROTHY JEFFERY
Delta City Recorder

MINUTES APPROVED:

p95.
#161 E
#162
not used